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CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1900

Introduced by Assembly Member Lieu
(Coauthors: Assembly Members Shirley Horton, Karnette,
Koretz, Spitzer, and Vargas)
(Coauthor: Senator Denham)

January 25, 2006

An act to amend ~~Sections 290 and~~ *Section* 290.95 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1900, as amended, Lieu. Sex offenders: registration.

Existing law requires that persons convicted of certain sex-related offenses register with designated local officials in the county of their residence upon release from custody.

~~This bill would add murder committed in the perpetration or attempted perpetration of specified sex crimes to the list of offenses that requires registration. This bill would also add conspiracy to commit the commission of any of the listed offenses.~~

~~Existing law provides that persons who have a duty to register as a sex offender in a out-of-state jurisdiction must register as a sex offender in this state. Existing law provides exceptions to this requirement for certain offenses unless the out-of-state offense would be subject to registration under California law.~~

~~This bill would add pimping and pandering to the excepted offenses. The bill would provide that the exceptions do not apply if the offense contains all the elements of a registerable California offense.~~

~~Existing law provides that a person who is a registered sex offender must reregister whenever he or she has been incarcerated and released from custody.~~

~~This bill would except from that reregistration requirement a person who has been incarcerated for less than 30 days, under certain circumstances.~~

~~Existing law prohibits a person who is required to register as a sex offender for a crime where the victim was a minor under 16 years of age from being an employee or volunteer with any person, group, or organization where the person would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children.~~

~~This bill would add employers and independent contractors to this prohibition and make other minor changes, as specified.~~

~~This bill would incorporate additional changes to Section 290.95 of the Penal Code proposed by AB 2263 contingent on the prior enactment of that bill.~~

~~Because this bill would increase and decrease sex offender registration requirements *change the definition of a crime*, it would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.~~

The people of the State of California do enact as follows:

1 SECTION 1. ~~Section 290 of the Penal Code, as amended by~~
2 ~~Chapter 722 of the Statutes of 2005, is amended to read:~~

3 290. ~~(a) (1) (A) Every person described in paragraph (2),~~
4 ~~for the rest of his or her life while residing in California, or while~~
5 ~~attending school or working in California, as described in~~
6 ~~subparagraph (G), shall be required to register with the chief of~~
7 ~~police of the city in which he or she is residing, or the sheriff of~~
8 ~~the county if he or she is residing in an unincorporated area or~~
9 ~~city that has no police department, and, additionally, with the~~
10 ~~chief of police of a campus of the University of California, the~~
11 ~~California State University, or community college if he or she is~~
12 ~~residing upon the campus or in any of its facilities, within five~~
13 ~~working days of coming into, or changing his or her residence~~
14 ~~within, any city, county, or city and county, or campus in which~~
15 ~~he or she temporarily resides.~~

16 ~~(B) If the person who is registering has more than one~~
17 ~~residence address at which he or she regularly resides, he or she~~
18 ~~shall register in accordance with subparagraph (A) in each of the~~
19 ~~jurisdictions in which he or she regularly resides, regardless of~~
20 ~~the number of days or nights spent there. If all of the addresses~~
21 ~~are within the same jurisdiction, the person shall provide the~~
22 ~~registering authority with all of the addresses where he or she~~
23 ~~regularly resides.~~

24 ~~(C) Every person described in paragraph (2), for the rest of~~
25 ~~his or her life while living as a transient in California shall be~~
26 ~~required to register, as follows:~~

27 ~~(i) A transient must register, or reregister if the person has~~
28 ~~previously registered, within five working days from release~~
29 ~~from incarceration, placement or commitment, or release on~~
30 ~~probation, pursuant to paragraph (1) of subdivision (a), except~~
31 ~~that if the person previously registered as a transient less than 30~~
32 ~~days from the date of his or her release from incarceration, he or~~
33 ~~she does not need to reregister as a transient until his or her next~~
34 ~~required 30-day update of registration. If a transient is not~~
35 ~~physically present in any one jurisdiction for five consecutive~~
36 ~~working days, he or she must register in the jurisdiction in which~~
37 ~~he or she is physically present on the fifth working day following~~
38 ~~release, pursuant to paragraph (1) of subdivision (a). Beginning~~

1 on or before the 30th day following initial registration upon
2 release, a transient must reregister no less than once every 30
3 days thereafter. A transient shall register with the chief of police
4 of the city in which he or she is physically present within that
5 30-day period, or the sheriff of the county if he or she is
6 physically present in an unincorporated area or city that has no
7 police department, and additionally, with the chief of police of a
8 campus of the University of California, the California State
9 University, or community college if he or she is physically
10 present upon the campus or in any of its facilities. A transient
11 must reregister no less than once every 30 days regardless of the
12 length of time he or she has been physically present in the
13 particular jurisdiction in which he or she reregisters. If a transient
14 fails to reregister within any 30-day period, he or she may be
15 prosecuted in any jurisdiction in which he or she is physically
16 present.

17 (ii) A transient who moves to a residence shall have five
18 working days within which to register at that address, in
19 accordance with subparagraph (A) of paragraph (1) of
20 subdivision (a). A person registered at a residence address in
21 accordance with subparagraph (A) of paragraph (1) of
22 subdivision (a), who becomes transient shall have five working
23 days within which to reregister as a transient in accordance with
24 clause (i).

25 (iii) Beginning on his or her first birthday following
26 registration, a transient shall register annually, within five
27 working days of his or her birthday, to update his or her
28 registration with the entities described in clause (i). A transient
29 shall register in whichever jurisdiction he or she is physically
30 present on that date. At the 30-day updates and the annual
31 update, a transient shall provide current information as required
32 on the Department of Justice annual update form, including the
33 information described in subparagraphs (A) to (C), inclusive, of
34 paragraph (2) of subdivision (c), and the information specified in
35 clause (iv).

36 (iv) A transient shall, upon registration and reregistration,
37 provide current information as required on the Department of
38 Justice registration forms, and shall also list the places where he
39 or she sleeps, eats, works, frequents, and engages in leisure
40 activities. If a transient changes or adds to the places listed on the

1 form during the 30-day period, he or she does not need to report
2 the new place or places until the next required reregistration:

3 ~~(v) Failure to comply with the requirement of reregistering~~
4 ~~every 30 days following initial registration pursuant to clause (i)~~
5 ~~of this subparagraph shall be punished in accordance with~~
6 ~~paragraph (6) of subdivision (g). Failure to comply with any~~
7 ~~other requirement of this section shall be punished in accordance~~
8 ~~with either paragraph (1) or (2) of subdivision (g).~~

9 ~~(vi) A transient who moves out of state shall inform, in person,~~
10 ~~the chief of police in the city in which he or she is physically~~
11 ~~present, or the sheriff of the county if he or she is physically~~
12 ~~present in an unincorporated area or city that has no police~~
13 ~~department, within five working days, of his or her move out of~~
14 ~~state. The transient shall inform that registering agency of his or~~
15 ~~her planned destination, residence or transient location out of~~
16 ~~state, and any plans he or she has to return to California, if~~
17 ~~known. The law enforcement agency shall, within three days~~
18 ~~after receipt of this information, forward a copy of the change of~~
19 ~~location information to the Department of Justice. The~~
20 ~~department shall forward appropriate registration data to the law~~
21 ~~enforcement agency having local jurisdiction of the new place of~~
22 ~~residence or location.~~

23 ~~(vii) For purposes of this section, "transient" means a person~~
24 ~~who has no residence. "Residence" means one or more addresses~~
25 ~~at which a person regularly resides, regardless of the number of~~
26 ~~days or nights spent there, such as a shelter or structure that can~~
27 ~~be located by a street address, including, but not limited to,~~
28 ~~houses, apartment buildings, motels, hotels, homeless shelters,~~
29 ~~and recreational and other vehicles.~~

30 ~~(viii) The transient registrant's duty to update his or her~~
31 ~~registration no less than every 30 days shall begin with his or her~~
32 ~~second transient update following the date this subdivision~~
33 ~~became effective.~~

34 ~~(D) Beginning on his or her first birthday following~~
35 ~~registration or change of address, the person shall be required to~~
36 ~~register annually, within five working days of his or her birthday,~~
37 ~~to update his or her registration with the entities described in~~
38 ~~subparagraph (A). At the annual update, the person shall provide~~
39 ~~current information as required on the Department of Justice~~
40 ~~annual update form, including the information described in~~

1 subparagraphs (A) to (C), inclusive, of paragraph (2) of
2 subdivision (e):

3 (E) In addition, every person who has ever been adjudicated a
4 sexually violent predator, as defined in Section 6600 of the
5 Welfare and Institutions Code, shall, after his or her release from
6 custody, verify his or her address no less than once every 90 days
7 and place of employment, including the name and address of the
8 employer, in a manner established by the Department of Justice.

9 (F) No entity shall require a person to pay a fee to register or
10 update his or her registration pursuant to this section. The
11 registering agency shall submit registrations, including annual
12 updates or changes of address, directly into the Department of
13 Justice Violent Crime Information Network (VCIN).

14 (G) Persons required to register in their state of residence who
15 are out-of-state residents employed, or carrying on a vocation in
16 California on a full-time or part-time basis, with or without
17 compensation, for more than 14 days, or for an aggregate period
18 exceeding 30 days in a calendar year, shall register in accordance
19 with subparagraph (A). Persons described in paragraph (2) who
20 are out-of-state residents enrolled in any educational institution
21 in California, as defined in Section 22129 of the Education Code,
22 on a full-time or part-time basis, shall register in accordance with
23 subparagraph (A). The place where the out-of-state resident is
24 located, for purposes of registration, shall be the place where the
25 person is employed, carrying on a vocation, or attending school.
26 The out-of-state resident subject to this subparagraph shall, in
27 addition to the information required pursuant to subdivision (e),
28 provide the registering authority with the name of his or her place
29 of employment or the name of the school attended in California,
30 and his or her address or location in his or her state of residence.
31 The registration requirement for persons subject to this
32 subparagraph shall become operative on November 25, 2000.
33 The terms “employed or carries on a vocation” include
34 employment whether or not financially compensated,
35 volunteered, or performed for government or educational benefit.

36 (2) The following persons shall be required to register
37 pursuant to paragraph (1):

38 (A) Any person who, since July 1, 1944, has been or is
39 hereafter convicted in any court in this state or in any federal or
40 military court of a violation of Section 187 committed in the

1 ~~perpetration, or an attempt to perpetrate, rape or any act~~
2 ~~punishable under Section 286, 288, 288a, or 289, Section 207 or~~
3 ~~209 committed with intent to violate Section 261, 286, 288, 288a,~~
4 ~~or 289, Section 220, except assault to commit mayhem, Section~~
5 ~~243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of~~
6 ~~Section 261, or paragraph (1) of subdivision (a) of Section 262~~
7 ~~involving the use of force or violence for which the person is~~
8 ~~sentenced to the state prison, Section 264.1, 266, or 266c,~~
9 ~~subdivision (b) of Section 266h, subdivision (b) of Section 266i,~~
10 ~~Section 266j, 267, 269, 285, 286, 288, 288a, 288.5, or 289,~~
11 ~~Section 311.1, subdivision (b), (c), or (d) of Section 311.2,~~
12 ~~Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section~~
13 ~~647a, subdivision (c) of Section 653f, subdivision 1 or 2 of~~
14 ~~Section 314, any offense involving lewd or lascivious conduct~~
15 ~~under Section 272, or any felony violation of Section 288.2; or~~
16 ~~any statutory predecessor that includes all elements of one of the~~
17 ~~above-mentioned offenses; or any person who since that date has~~
18 ~~been or is hereafter convicted of the attempt or conspiracy to~~
19 ~~commit any of the above-mentioned offenses.~~

20 (B) ~~Any person who, since July 1, 1944, has been or hereafter~~
21 ~~is released, discharged, or paroled from a penal institution where~~
22 ~~he or she was confined because of the commission or attempted~~
23 ~~commission of one of the offenses described in subparagraph~~
24 ~~(A).~~

25 (C) ~~Any person who, since July 1, 1944, has been or hereafter~~
26 ~~is determined to be a mentally disordered sex offender under~~
27 ~~Article 1 (commencing with Section 6300) of Chapter 2 of Part 2~~
28 ~~of Division 6 of the Welfare and Institutions Code or any person~~
29 ~~who has been found guilty in the guilt phase of a trial for an~~
30 ~~offense for which registration is required by this section but who~~
31 ~~has been found not guilty by reason of insanity in the sanity~~
32 ~~phase of the trial.~~

33 (D) (i) ~~Any person who, since July 1, 1944, has been, or is~~
34 ~~hereafter convicted in any other court, including any state,~~
35 ~~federal, or military court, of any offense that, if committed or~~
36 ~~attempted in this state, would have been punishable as one or~~
37 ~~more of the offenses described in subparagraph (A), including~~
38 ~~offenses in which the person was a principal as defined in~~
39 ~~Section 31.~~

~~(ii) Any person ordered by any other court, including any state, federal, or military court, to register as a sex offender for any offense, if the court found at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification.~~

~~(iii) (I) Except as provided in subelause (II), any person who would be required to register while residing in the state of conviction for a sex offense committed in that state.~~

~~(II) Notwithstanding subelause (I), a person convicted in another state of an offense similar to one of the following offenses who is required to register in the state of conviction shall not be required to register in California unless the out-of-state offense contains all the elements of a registerable California offense described in subparagraph (A):~~

~~(I) Indecent exposure, pursuant to Section 314.~~

~~(II) Unlawful sexual intercourse, pursuant to Section 261.5.~~

~~(III) Incest, pursuant to Section 285.~~

~~(IV) Sodomy, pursuant to Section 286, or oral copulation, pursuant to Section 288a, provided that the offender notifies the Department of Justice that the sodomy or oral copulation conviction was for conduct between consenting adults, as described in subparagraph (F) of paragraph (2) of subdivision (a), and the department is able, upon the exercise of reasonable diligence, to verify that fact.~~

~~(V) Pimping pursuant to Section 266h, or pandering, pursuant to Section 266i.~~

~~(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.~~

~~(F) Any person required to register pursuant to any provision of this section, regardless of whether the person's conviction has been dismissed pursuant to Section 1203.4, unless the person obtains a certificate of rehabilitation and is entitled to relief from registration pursuant to Section 290.5.~~

~~(G) (i) Notwithstanding any other subdivision, a person who was convicted before January 1, 1976, under subdivision (a) of~~

1 ~~Section 286, or Section 288a, shall not be required to register~~
2 ~~pursuant to this section for that conviction if the conviction was~~
3 ~~for conduct between consenting adults that was decriminalized~~
4 ~~by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the~~
5 ~~Statutes of 1976. The Department of Justice shall remove that~~
6 ~~person from the Sex Offender Registry, and the person is~~
7 ~~discharged from his or her duty to register pursuant to the~~
8 ~~following procedure:~~

9 (I) ~~The person submits to the Department of Justice official~~
10 ~~documentary evidence, including court records or police reports,~~
11 ~~that demonstrate that the person's conviction pursuant to either of~~
12 ~~those sections was for conduct between consenting adults that~~
13 ~~was decriminalized; or~~

14 (II) ~~The person submits to the department a declaration stating~~
15 ~~that the person's conviction pursuant to either of those sections~~
16 ~~was for consensual conduct between adults that has been~~
17 ~~decriminalized. The declaration shall be confidential and not a~~
18 ~~public record, and shall include the person's name, address,~~
19 ~~telephone number, date of birth, and a summary of the~~
20 ~~circumstances leading to the conviction, including the date of the~~
21 ~~conviction and county of the occurrence.~~

22 (III) ~~The department shall determine whether the person's~~
23 ~~conviction was for conduct between consensual adults that has~~
24 ~~been decriminalized. If the conviction was for consensual~~
25 ~~conduct between adults that has been decriminalized, and the~~
26 ~~person has no other offenses for which he or she is required to~~
27 ~~register pursuant to this section, the department shall, within 60~~
28 ~~days of receipt of those documents, notify the person that he or~~
29 ~~she is relieved of the duty to register, and shall notify the local~~
30 ~~law enforcement agency with which the person is registered that~~
31 ~~he or she has been relieved of the duty to register. The local law~~
32 ~~enforcement agency shall remove the person's registration from~~
33 ~~its files within 30 days of receipt of notification. If the~~
34 ~~documentary or other evidence submitted is insufficient to~~
35 ~~establish the person's claim, the department shall, within 60 days~~
36 ~~of receipt of those documents, notify the person that his or her~~
37 ~~claim cannot be established, and that the person shall continue to~~
38 ~~register pursuant to this section. The department shall provide,~~
39 ~~upon the person's request, any information relied upon by the~~
40 ~~department in making its determination that the person shall~~

1 continue to register pursuant to this section. Any person whose
2 claim has been denied by the department pursuant to this clause
3 may petition the court to appeal the department's denial of the
4 person's claim.

5 (ii) On or before July 1, 1998, the department shall make a
6 report to the Legislature concerning the status of persons who
7 may come under the provisions of this subparagraph, including
8 the number of persons who were convicted before January 1,
9 1976, under subdivision (a) of Section 286 or Section 288a and
10 are required to register under this section, the average age of
11 these persons, the number of these persons who have any
12 subsequent convictions for a registerable sex offense, and the
13 number of these persons who have sought successfully or
14 unsuccessfully to be relieved of their duty to register under this
15 section.

16 (b) (1) Any person who is released, discharged, or paroled
17 from a jail, state or federal prison, school, road camp, or other
18 institution where he or she was confined because of the
19 commission or attempted commission of one of the offenses
20 specified in subdivision (a) or is released from a state hospital to
21 which he or she was committed as a mentally disordered sex
22 offender under Article 1 (commencing with Section 6300) of
23 Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions
24 Code, shall, prior to discharge, parole, or release, be informed of
25 his or her duty to register under this section by the official in
26 charge of the place of confinement or hospital, and the official
27 shall require the person to read and sign any form that may be
28 required by the Department of Justice, stating that the duty of the
29 person to register under this section has been explained to the
30 person. The official in charge of the place of confinement or
31 hospital shall obtain the address where the person expects to
32 reside upon his or her discharge, parole, or release and shall
33 report the address to the Department of Justice. The official shall
34 at the same time forward a current photograph of the person to
35 the Department of Justice.

36 (2) The official in charge of the place of confinement or
37 hospital shall give one copy of the form to the person and shall
38 send one copy to the Department of Justice and one copy to the
39 appropriate law enforcement agency or agencies having
40 jurisdiction over the place the person expects to reside upon

1 discharge, parole, or release. If the conviction that makes the
2 person subject to this section is a felony conviction, the official
3 in charge shall, not later than 45 days prior to the scheduled
4 release of the person, send one copy to the appropriate law
5 enforcement agency or agencies having local jurisdiction where
6 the person expects to reside upon discharge, parole, or release;
7 one copy to the prosecuting agency that prosecuted the person;
8 and one copy to the Department of Justice. The official in charge
9 of the place of confinement or hospital shall retain one copy.

10 (e) (1) Any person who is convicted in this state of the
11 commission or attempted commission of any of the offenses
12 specified in subdivision (a) and who is released on probation,
13 shall, prior to release or discharge, be informed of the duty to
14 register under this section by the probation department, and a
15 probation officer shall require the person to read and sign any
16 form that may be required by the Department of Justice, stating
17 that the duty of the person to register under this section has been
18 explained to him or her. The probation officer shall obtain the
19 address where the person expects to reside upon release or
20 discharge and shall report within three days the address to the
21 Department of Justice. The probation officer shall give one copy
22 of the form to the person, send one copy to the Department of
23 Justice, and forward one copy to the appropriate law enforcement
24 agency or agencies having local jurisdiction where the person
25 expects to reside upon his or her discharge, parole, or release.

26 (2) Any person who is convicted in this state of the
27 commission or attempted commission of any of the offenses
28 specified in subdivision (a) and who is granted conditional
29 release without supervised probation, or discharged upon
30 payment of a fine, shall, prior to release or discharge, be
31 informed of the duty to register under this section in open court
32 by the court in which the person has been convicted, and the
33 court shall require the person to read and sign any form that may
34 be required by the Department of Justice, stating that the duty of
35 the person to register under this section has been explained to
36 him or her. If the court finds that it is in the interest of the
37 efficiency of the court, the court may assign the bailiff to require
38 the person to read and sign forms under this section. The court
39 shall obtain the address where the person expects to reside upon
40 release or discharge and shall report within three days the address

1 to the Department of Justice. The court shall give one copy of the
2 form to the person, send one copy to the Department of Justice,
3 and forward one copy to the appropriate law enforcement agency
4 or agencies having local jurisdiction where the person expects to
5 reside upon his or her discharge, parole, or release.

6 ~~(d) (1) Any person who, on or after January 1, 1986, is~~
7 ~~discharged or paroled from the Department of the Youth~~
8 ~~Authority to the custody of which he or she was committed after~~
9 ~~having been adjudicated a ward of the juvenile court pursuant to~~
10 ~~Section 602 of the Welfare and Institutions Code because of the~~
11 ~~commission or attempted commission of any offense described in~~
12 ~~paragraph (3) shall be subject to registration under the procedures~~
13 ~~of this section.~~

14 ~~(2) Any person who is discharged or paroled from a facility in~~
15 ~~another state that is equivalent to the Department of the Youth~~
16 ~~Authority, to the custody of which he or she was committed~~
17 ~~because of an offense which, if committed or attempted in this~~
18 ~~state, would have been punishable as one or more of the offenses~~
19 ~~described in paragraph (3), shall be subject to registration under~~
20 ~~the procedures of this section.~~

21 ~~(3) Any person described in this subdivision who committed~~
22 ~~an offense in violation of any of the following provisions shall be~~
23 ~~required to register pursuant to this section:~~

24 ~~(A) Assault with intent to commit rape, sodomy, oral~~
25 ~~copulation, or any violation of Section 264.1, 288, or 289 under~~
26 ~~Section 220.~~

27 ~~(B) Any offense defined in paragraph (1), (2), (3), (4), or (6)~~
28 ~~of subdivision (a) of Section 261, Section 264.1, 266c, or 267,~~
29 ~~paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,~~
30 ~~Section 286, Section 288 or 288.5, paragraph (1) of subdivision~~
31 ~~(b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a)~~
32 ~~of Section 289, or Section 647.6.~~

33 ~~(C) A violation of Section 207 or 209 committed with the~~
34 ~~intent to violate Section 261, 286, 288, 288a, or 289.~~

35 ~~(4) Prior to discharge or parole from the Department of the~~
36 ~~Youth Authority, any person who is subject to registration under~~
37 ~~this subdivision shall be informed of the duty to register under~~
38 ~~the procedures set forth in this section. Department of the Youth~~
39 ~~Authority officials shall transmit the required forms and~~
40 ~~information to the Department of Justice.~~

~~(5) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.~~

~~(e) (1) On or after January 1, 1998, upon incarceration, placement, or commitment, or prior to release on probation, any person who is required to register under this section shall preregister. The preregistering official shall be the admitting officer at the place of incarceration, placement, or commitment, or the probation officer if the person is to be released on probation. The preregistration shall consist of all of the following:~~

~~(A) A preregistration statement in writing, signed by the person, giving information that shall be required by the Department of Justice.~~

~~(B) The fingerprints and a current photograph of the person.~~

~~(C) Any person who is preregistered pursuant to this subdivision is required to be preregistered only once.~~

~~(2) A person described in paragraph (2) of subdivision (a) shall register, or reregister if he or she has previously registered, upon release from incarceration, placement, commitment, or release on probation pursuant to paragraph (1) of subdivision (a). This paragraph shall not apply to a person who is incarcerated for less than 30 days if he or she has registered as required by paragraph (1) of subdivision (a), he or she returns after incarceration to the last registered address, and the annual update of registration that is required to occur within five working days of his or her birthday, pursuant to subparagraph (D) of paragraph (1) of subdivision (a), did not fall within that incarceration period. The registration shall consist of all of the following:~~

~~(A) A statement in writing signed by the person, giving information as shall be required by the Department of Justice and giving the name and address of the person's employer, and the~~

1 address of the person's place of employment if that is different
2 from the employer's main address.

3 (B) The fingerprints and a current photograph of the person
4 taken by the registering official.

5 (C) The license plate number of any vehicle owned by,
6 regularly driven by, or registered in the name of the person.

7 (D) Notice to the person that, in addition to the requirements
8 of paragraph (4), he or she may have a duty to register in any
9 other state where he or she may relocate.

10 (E) Copies of adequate proof of residence, which shall be
11 limited to a California driver's license, California identification
12 card, recent rent or utility receipt, printed personalized checks or
13 other recent banking documents showing that person's name and
14 address, or any other information that the registering official
15 believes is reliable. If the person has no residence and no
16 reasonable expectation of obtaining a residence in the foreseeable
17 future, the person shall so advise the registering official and shall
18 sign a statement provided by the registering official stating that
19 fact. Upon presentation of proof of residence to the registering
20 official or a signed statement that the person has no residence,
21 the person shall be allowed to register. If the person claims that
22 he or she has a residence but does not have any proof of
23 residence, he or she shall be allowed to register but shall furnish
24 proof of residence within 30 days of the date he or she is allowed
25 to register.

26 (3) Within three days thereafter, the preregistering official or
27 the registering law enforcement agency or agencies shall forward
28 the statement, fingerprints, photograph, and vehicle license plate
29 number, if any, to the Department of Justice.

30 (f) (1) (A) Any person who was last registered at a residence
31 address pursuant to this section who changes his or her residence
32 address, whether within the jurisdiction in which he or she is
33 currently registered or to a new jurisdiction inside or outside the
34 state, shall, in person, within five working days of the move,
35 inform the law enforcement agency or agencies with which he or
36 she last registered of the move, the new address or transient
37 location, if known, and any plans he or she has to return to
38 California.

39 (B) If the person does not know the new residence address or
40 location at the time of the move, the registrant shall, in person,

1 within five working days of the move, inform the last registering
2 agency or agencies that he or she is moving. The person shall
3 later notify the last registering agency or agencies, in writing,
4 sent by certified or registered mail, of the new address or location
5 within five working days of moving into the new residence
6 address or location, whether temporary or permanent.

7 (C) The law enforcement agency or agencies shall, within
8 three working days after receipt of this information, forward a
9 copy of the change of address information to the Department of
10 Justice. The Department of Justice shall forward appropriate
11 registration data to the law enforcement agency or agencies
12 having local jurisdiction of the new place of residence.

13 (2) If the person's new address is in a Department of the
14 Youth Authority facility or a state prison or state mental
15 institution, an official of the place of incarceration, placement, or
16 commitment shall, within 90 days of receipt of the person,
17 forward the registrant's change of address information to the
18 Department of Justice. The agency need not provide a physical
19 address for the registrant but shall indicate that he or she is
20 serving a period of incarceration or commitment in a facility
21 under the agency's jurisdiction. This paragraph shall apply to
22 persons received in a Department of the Youth Authority facility
23 or a state prison or state mental institution on or after January 1,
24 1999. The Department of Justice shall forward the change of
25 address information to the agency with which the person last
26 registered.

27 (3) If any person who is required to register pursuant to this
28 section changes his or her name, the person shall inform, in
29 person, the law enforcement agency or agencies with which he or
30 she is currently registered within five working days. The law
31 enforcement agency or agencies shall forward a copy of this
32 information to the Department of Justice within three working
33 days of its receipt.

34 (g) (1) Any person who is required to register under this
35 section based on a misdemeanor conviction or juvenile
36 adjudication who willfully violates any requirement of this
37 section is guilty of a misdemeanor punishable by imprisonment
38 in a county jail not exceeding one year.

39 (2) Except as provided in paragraphs (5), (7), and (9), any
40 person who is required to register under this section based on a

1 ~~felony conviction or juvenile adjudication who willfully violates~~
2 ~~any requirement of this section or who has a prior conviction or~~
3 ~~juvenile adjudication for the offense of failing to register under~~
4 ~~this section and who subsequently and willfully violates any~~
5 ~~requirement of this section is guilty of a felony and shall be~~
6 ~~punished by imprisonment in the state prison for 16 months, or~~
7 ~~two or three years.~~

8 ~~If probation is granted or if the imposition or execution of~~
9 ~~sentence is suspended, it shall be a condition of the probation or~~
10 ~~suspension that the person serve at least 90 days in a county jail.~~
11 ~~The penalty described in this paragraph shall apply whether or~~
12 ~~not the person has been released on parole or has been discharged~~
13 ~~from parole.~~

14 ~~(3) Any person determined to be a mentally disordered sex~~
15 ~~offender or who has been found guilty in the guilt phase of trial~~
16 ~~for an offense for which registration is required under this~~
17 ~~section, but who has been found not guilty by reason of insanity~~
18 ~~in the sanity phase of the trial, or who has had a petition~~
19 ~~sustained in a juvenile adjudication for an offense for which~~
20 ~~registration is required under this section pursuant to subdivision~~
21 ~~(d), but who has been found not guilty by reason of insanity, who~~
22 ~~willfully violates any requirement of this section is guilty of a~~
23 ~~misdemeanor and shall be punished by imprisonment in a county~~
24 ~~jail not exceeding one year. For any second or subsequent willful~~
25 ~~violation of any requirement of this section, the person is guilty~~
26 ~~of a felony and shall be punished by imprisonment in the state~~
27 ~~prison for 16 months, or two or three years.~~

28 ~~(4) If, after discharge from parole, the person is convicted of a~~
29 ~~felony or suffers a juvenile adjudication as specified in this~~
30 ~~subdivision, he or she shall be required to complete parole of at~~
31 ~~least one year, in addition to any other punishment imposed~~
32 ~~under this subdivision. A person convicted of a felony as~~
33 ~~specified in this subdivision may be granted probation only in the~~
34 ~~unusual case where the interests of justice would best be served.~~
35 ~~When probation is granted under this paragraph, the court shall~~
36 ~~specify on the record and shall enter into the minutes the~~
37 ~~circumstances indicating that the interests of justice would best~~
38 ~~be served by the disposition.~~

39 ~~(5) Any person who has ever been adjudicated a sexually~~
40 ~~violent predator, as defined in Section 6600 of the Welfare and~~

1 Institutions Code, and who fails to verify his or her registration
2 every 90 days as required pursuant to subparagraph (E) of
3 paragraph (1) of subdivision (a), shall be punished by
4 imprisonment in the state prison, or in a county jail not exceeding
5 one year.

6 (6) Except as otherwise provided in paragraph (5), any person
7 who is required to register or reregister pursuant to clause (i) of
8 subparagraph (C) of paragraph (1) of subdivision (a) and
9 willfully fails to comply with the requirement that he or she
10 reregister no less than every 30 days is guilty of a misdemeanor
11 and shall be punished by imprisonment in a county jail at least 30
12 days, but not exceeding six months. A person who willfully fails
13 to comply with the requirement that he or she reregister no less
14 than every 30 days shall not be charged with this violation more
15 often than once for a failure to register in any period of 90 days.
16 Any person who willfully commits a third or subsequent
17 violation of the requirements of subparagraph (C) of paragraph
18 (1) of subdivision (a) that he or she reregister no less than every
19 30 days shall be punished in accordance with either paragraph (1)
20 or (2) of this subdivision.

21 (7) Any person who fails to provide proof of residence as
22 required by subparagraph (E) of paragraph (2) of subdivision (e),
23 regardless of the offense upon which the duty to register is based,
24 is guilty of a misdemeanor punishable by imprisonment in a
25 county jail not exceeding six months.

26 (8) Any person who is required to register under this section
27 who willfully violates any requirement of this section is guilty of
28 a continuing offense as to each requirement he or she violated.

29 (9) In addition to any other penalty imposed under this
30 subdivision, the failure to provide information required on
31 registration and reregistration forms of the Department of Justice,
32 or the provision of false information, is a crime punishable by
33 imprisonment in a county jail for a period not exceeding one
34 year.

35 (h) Whenever any person is released on parole or probation
36 and is required to register under this section but fails to do so
37 within the time prescribed, the parole authority, the Youthful
38 Offender Parole Board, or the court, as the case may be, shall
39 order the parole or probation of the person revoked. For purposes

1 of this subdivision, “parole authority” has the same meaning as
2 described in Section 3000.

3 (i) Except as otherwise provided by law, the statements,
4 photographs, and fingerprints required by this section shall not be
5 open to inspection by the public or by any person other than a
6 regularly employed peace officer or other law enforcement
7 officer.

8 (j) In any case in which a person who would be required to
9 register pursuant to this section for a felony conviction is to be
10 temporarily sent outside the institution where he or she is
11 confined on any assignment within a city or county including
12 firefighting, disaster control, or of whatever nature the
13 assignment may be, the local law enforcement agency having
14 jurisdiction over the place or places where the assignment shall
15 occur shall be notified within a reasonable time prior to removal
16 from the institution. This subdivision shall not apply to any
17 person who is temporarily released under guard from the
18 institution where he or she is confined.

19 (k) As used in this section, “mentally disordered sex offender”
20 includes any person who has been determined to be a sexual
21 psychopath or a mentally disordered sex offender under any
22 provision which, on or before January 1, 1976, was contained in
23 Division 6 (commencing with Section 6000) of the Welfare and
24 Institutions Code.

25 (l) (1) Every person who, prior to January 1, 1997, is required
26 to register under this section, shall be notified whenever he or she
27 next reregisters of the reduction of the registration period from
28 14 to 5 working days. This notice shall be provided in writing by
29 the registering agency or agencies. Failure to receive this
30 notification shall be a defense against the penalties prescribed by
31 subdivision (g) if the person did register within 14 days.

32 (2) Every person who, as a sexually violent predator, as
33 defined in Section 6600 of the Welfare and Institutions Code, is
34 required to verify his or her registration every 90 days, shall be
35 notified wherever he or she next registers of his or her increased
36 registration obligations. This notice shall be provided in writing
37 by the registering agency or agencies. Failure to receive this
38 notice shall be a defense against the penalties prescribed by
39 paragraph (5) of subdivision (g).

1 ~~(m) The registration provisions of this section are applicable to~~
2 ~~every person described in this section, without regard to when his~~
3 ~~or her crime or crimes were committed or his or her duty to~~
4 ~~register pursuant to this section arose, and to every offense~~
5 ~~described in this section, regardless of when it was committed.~~

6 ~~SEC. 2.~~

7 ~~SECTION 1.~~ Section 290.95 of the Penal Code is amended to
8 read:

9 290.95. (a) Every person required to register under Section
10 290, who applies *for* or accepts a position as an employee or
11 volunteer with any person, group, or organization, where the
12 registrant would be working directly and in an unaccompanied
13 setting with minor children on more than an incidental and
14 occasional basis or have supervision or disciplinary power over
15 minor children, shall disclose his or her status as a registrant,
16 upon application or acceptance of a position, to that person,
17 group, or organization.

18 (b) No person who is required to register under Section 290
19 because of a conviction for a crime where the victim was a minor
20 under 16 years of age shall be an employer, employee, or
21 independent contractor, or act as a volunteer with any person,
22 group, or organization, in a capacity in which the registrant
23 would be working directly and in an unaccompanied setting with
24 minor children on more than an incidental and occasional basis
25 or have supervision or disciplinary power over minor children.
26 This subdivision shall not apply to a business owner or
27 independent contractor who has the ability to hire, fire, or
28 discipline minors, but who does not work directly in an
29 unaccompanied setting with minors.

30 (c) A violation of this section is a misdemeanor punishable by
31 imprisonment in a county jail for not exceeding six months, by a
32 fine not exceeding one thousand dollars (\$1,000), or by both that
33 imprisonment and fine, and a violation of this section shall not
34 constitute a continuing offense.

35 ~~SEC. 2.5.~~

36 ~~SEC. 1.5.~~ Section 290.95 of the Penal Code is amended to
37 read:

38 290.95. (a) Every person required to register under Section
39 290, who applies *for* or accepts a position as an employee or
40 volunteer with any person, group, or organization where the

1 registrant would be working directly and in an unaccompanied
2 setting with minor children on more than an incidental and
3 occasional basis or have supervision or disciplinary power over
4 minor children, shall disclose his or her status as a registrant,
5 upon application or acceptance of a position, to that person,
6 group, or organization.

7 (b) Every person required to register under Section 290 who
8 applies for or accepts a position as an employee or volunteer with
9 any person, group, or organization where the applicant would be
10 working directly and in an accompanied setting with minor
11 children, and the applicant's work would require him or her to
12 touch the minor children on more than an incidental basis, shall
13 disclose his or her status as a registrant, upon application or
14 acceptance of the position, to that person, group, or organization.

15 (c) No person who is required to register under Section 290
16 because of a conviction for a crime where the victim was a minor
17 under 16 years of age shall be an employer, employee, or
18 independent contractor, or act as a volunteer with any person,
19 group, or organization in a capacity in which the registrant would
20 be working directly and in an unaccompanied setting with minor
21 children on more than an incidental and occasional basis or have
22 supervision or disciplinary power over minor children. This
23 subdivision shall not apply to a business owner or independent
24 contractor who has the ability to hire, fire, or discipline minors,
25 but who does not work directly in an unaccompanied setting with
26 minors.

27 (d) A violation of this section is a misdemeanor punishable by
28 imprisonment in a county jail for not exceeding six months, by a
29 fine not exceeding one thousand dollars (\$1,000), or by both that
30 imprisonment and fine, and a violation of this section shall not
31 constitute a continuing offense.

32 ~~SEC. 3.~~

33 *SEC. 2.* Section ~~2.5~~ 1.5 of this bill incorporates amendments
34 to Section 290.95 of the Penal Code proposed by both this bill
35 and AB 2263. It shall become effective only if (1) both bills are
36 enacted and become effective on or before January 1, 2007, (2)
37 each bill amends Section 290.95 of the Penal Code, and (3) this
38 bill is enacted after AB 2263, in which case Section ~~2~~ 1 of this
39 bill shall not become operative.

1 ~~SEC. 4.~~

2 *SEC. 3.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the
7 penalty for a crime or infraction, within the meaning of Section
8 17556 of the Government Code, or changes the definition of a
9 crime within the meaning of Section 6 of Article XIII B of the
10 California Constitution.

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